

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

IYASSU SMALL,)	
)	
Plaintiff,)	
)	
v.)	2:21-cv-00333-JDL
)	
MAINE COMMITTEE ON JUDICIAL RESPONSIBILITY DISABILITY, et al.)	
)	
Defendants.)	

**ORDER ACCEPTING THE RECOMMENDED DECISION OF THE
MAGISTRATE JUDGE**

Plaintiff Iyassu Small, proceeding pro se, filed a Complaint (ECF No. 1) and Application to Proceed Without Prepayment of Fees (ECF No. 2) on November 24, 2021. Because Plaintiff was a “prisoner seek[ing] redress from a governmental entity or officer or employee of a governmental entity,” the Court was required to screen the Complaint “before docketing, if feasible or . . . as soon as practicable after docketing,” pursuant to the Prison Litigation Reform Act. 28 U.S.C. § 1915A(a) (West 2022). The screening requires courts to “identify cognizable claims or dismiss the complaint, or any portion of the complaint” if the complaint “is frivolous, malicious, or fails to state a claim.” 28 U.S.C. § 1915A(b). Pursuant to 28 U.S.C.A § 636(b)(1) (West 2022), United States Magistrate Judge John C. Nivison reviewed the Plaintiff’s Complaint, and on December 3, 2021, Judge Nivison issued a Recommended Decision (ECF No. 3) to dismiss the Complaint because the Plaintiff did not allege any facts that would support an actionable claim against the Defendants. In addition, Plaintiff had not

filed a certified copy of his trust account as required by 28 U.S.C. § 1951(a)(2) to proceed without payment of a fee.

On December 16, 2021, Plaintiff filed additional materials in connection with his Complaint (ECF No. 5) and on January 11, 2022, Plaintiff filed a Notice of Appeal (ECF No. 6) with the First Circuit in response to Judge Nivison's Recommended Decision. On March 30, 2022, the First Circuit determined that because Plaintiff "[was] no longer incarcerated . . . this case [was] no longer proceeding under the Prison Litigation Reform Act." *Small v. Me. Comm. On Jud. Resp. Disability*, No. 22-1045 (1st Cir. March 30, 2022). On June 7, 2022, the First Circuit dismissed the appeal for lack of diligent prosecution (ECF No. 10).

Because the First Circuit determined that the matter was no longer governed by the Prison Litigation Reform Act, Judge Nivison revisited the Recommended Decision of December 3, 2021, and considered Plaintiff's Amendment to Complaint and Memorandum of Law (ECF No. 5). On July 14, 2022, Judge Nivison issued an Order (ECF No. 13) notifying Plaintiff that if he wished to proceed, he would need to pay the \$402 filing fee or file a completed Application to Proceed Without Payment of Fees by August 4, 2022. The Order further advised Plaintiff that failure to comply could result in dismissal of the matter. Judge Nivison directed the Clerk to forward the application to all addresses listed for Plaintiff on the First Circuit's docket; nonetheless all pieces of mail were returned to the Court marked "undeliverable" (ECF Nos. 14-16).

Pursuant to 28 U.S.C.A. § 636(b)(1)(B) (West 2022) and Fed. R. Civ. P. 72(b), Judge Nivison filed a second Recommended Decision on August 18, 2022 (ECF No. 17), recommending that the Court dismiss the matter because Plaintiff has not addressed the filing fee, has not otherwise communicated with the Court in response to the Court's order, and has not kept the Court apprised of his address. The time within which to file objections has expired, and no objections have been filed. Judge Nivison provided notice that Plaintiff's failure to object would waive the right to *de novo* review and appeal.

Notwithstanding this waiver, I have reviewed and considered the Recommended Decision, together with the entire record, and I have made a *de novo* determination of all matters adjudicated by the Magistrate Judge. I concur with the recommendations of the Magistrate Judge for the reasons set forth in his August 18, 2022 Recommended Decision and determine that no further proceeding is necessary.

It is therefore **ORDERED** that the Magistrate Judge's Recommended Decision of August 18, 2022 (ECF No. 17) is hereby **ACCEPTED**, and Plaintiff's Complaint is **DISMISSED**.

SO ORDERED.

Dated this 18th day of October, 2022.

/s/ Jon D. Levy
CHIEF U.S. DISTRICT JUDGE